

E/K

Notice of Allowability	Application No.	Applicant(s)	
	10/655,354	NAKAGAWA, SHUJI	
	Examiner	Art Unit	
	Arnel C. Lavarias	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/28/05.
2. ☒ The allowed claim(s) is/are 1-5, 24-26 (renumbered 1-8).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

THONG NGUYEN
PRIMARY EXAMINER
GROUP 2800

DETAILED ACTION

Response to Amendment

1. The amendments to Claim 1 in the submission dated 10/28/05 are acknowledged and accepted.
2. The cancellation of Claims 9-14, 23 in the submission dated 10/28/05 is acknowledged and accepted. In view of these amendments, the rejections in Sections 9-11 of the Office Action dated 8/2/05 are respectfully withdrawn.
3. The addition of Claims 24-26 in the submission dated 10/28/05 is acknowledged and accepted.

Election/Restrictions

4. The Examiner notes that newly added Claim 25 appears to be directed to Species 1, which is drawn to a microscopic image capture apparatus and method, including a low-magnification dividing device dividing an entire area of a slide glass on a stage into field size sections of a predetermined low-power objective lens (e.g. Figures 2A, 3). Since Species 1 has been previously elected by the Applicant, Claims 25, as well as Claim 26 will be examined. In addition, newly added Claim 24 will be examined since it is dependent on Claim 1, which has already received an action on the merits.

Allowable Subject Matter

5. Claims 1-5, 24-26 are allowed.

REASONS FOR ALLOWANCE

6. The following is an examiner's statement of reasons for allowance:

Claims 1 and 25 are allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a microscopic image capture apparatus and method for capturing a sample image of a sample, as generally set forth in Claims 1 and 25, the apparatus and method including, in combination with the limitations recited in Claims 1 and 25, a separate low-magnification dividing device and a high-magnification dividing device; a separate image information obtaining device and a high-magnification image capture device; a sample image discrimination device; and an image information generation device for generating high-magnification composite image information about the sample on the slide glass by generating a high-magnification image such that a relative position between (i) an area of the high-magnification image corresponding to the high-magnification image information obtained by the high-magnification image capture device and (ii) an area of the high-magnification image corresponding to each said high-magnification size section discriminated as a sample image exclusion section and not captured by the high-magnification image capture device, can be correctly maintained. Claims 2-5, 24, 26 are dependent on Claims 1, 25, and hence are allowable for at least the same reasons Claims 1, 25 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2872

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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11/2/05



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